



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES, COUNCIL #68, AFL-CIO

Petitioner

and

UNIVERSITY SYSTEM OF NEW HAMPSHIRE
PUBLIC SERVICE DIVISION, SERVICE BUILDING
DURHAM CAMPUS

Respondent

CASE NO. A-0472

DECISION NO. 81-14

APPEARANCES

Representing AFSCME, Council #68, AFL-CIO:

James M. Ford, AFSCME representative
James C. Anderson, President of Council 68
Shancy L. Sears, UNH Safety
Wayne T. Woodward, UNH Traffic
James E. Allen, UNH Police

Representing the University System:

Nicholas DiGiovanni, Jr., Counsel
Gary W. Wulf, Director of Resource Administration
Frederic E. Arnold, Personnel Director

BACKGROUND

On October 1, 1980, Council #68, AFSCME, filed a petition for certification of a bargaining unit composed of members of the Public Safety Division of the University System of New Hampshire at the Durham Campus.

The University by its Counsel, Attorney DiGiovanni, filed exceptions to the petition and a motion to dismiss on the grounds that the petitioned unit was an inappropriate fragment of a larger unit of all Operating Staff members at the University of New Hampshire in Durham.

The matter was scheduled for hearing in January, however, postponed twice for valid reasons and came before PELRB on March 5, 1981. Due to a conflict of interest with one of the Board members and the unavailability of others to constitute a quorum of the Board, the case was heard by Chairman Edward J. Haseltine as hearing officer. Both parties agreed to proceed with the hearing officer named.

The University System contended that the proposed unit commingled in the Public Service Unit, guards and non-guards, and would create an inevitable conflict of interest and a division of loyalties between the public employees and the public employer. They further claimed that such commingling could have a detrimental effect on the efficiency of government operations. Counsel for the University cited the potential of a possible twenty (20) different units on the Durham Campus as there are that many different departments on the campus. Motion for dismissal was accepted but taken under advisement.

AFSCME's position was that a self-felt community of interest did exist in the Safety Department between the officers and patrolmen. All were sworn to uphold the law and all were located in the same physical headquarters office and received the supervision.

The proposed unit included the positions of Public Safety Officer VI, Sergeants and both parties agreed that the Sergeants be excluded from the unit.

The University Personnel Director testified as to the duties of the employees of the Safety Department and differentiated between certain officers having power of arrest with others who did not have arrest power. He outlined the size of the operating staff personnel and in support of the fragmentation issue indicated that "carving out" of the sizeable number of operational personnel, the public safety group, would be injurious to the operation at the University.

Several exhibits were presented by Counsel for the University among which were (a) listing of pay grades and classifications, (b) wage schedules, (c) UNH Benefit Handbook, (d) Operating Staff Handbook, (e) evaluation worksheets, (f) range movement, (g) list of transfers, (h) members of Operating Staff Council, (i) various job descriptions, (j) arrest record book sheets for 1/7/79 to 1/13/81, (k) and manner of filling vacancies and general progression of employees in the Public Safety Department.

Representative for AFSCME at this stage of the hearing indicated that they would not object to the removal from the proposed unit, the secretaries, clerks and account clerk positions.

Witness for the University, Acting Associate Director Adler, testified as to the duties and variations between night security police and patrolmen, all in the Public Safety Department.

FINDINGS

— The petition submitted by Council #68, AFSCME, AFL-CIO was supported by the required documentation, meeting the test under RSA 273-A:10, 1(a), "at least thirty percent of the employees in the bargaining unit...."

— The University based its objection to the fragmentation on the PELRB decision to grant a unit of the PPO & M Department on the Durham Campus which was subject of the Supreme Court decision, Appeal of the University System of New Hampshire v. New Hampshire Public Employee Labor Relations Board N. H. 80-128 and 80-283, December 22, 1980; Supreme Court of N. H. upheld the PELRB decision creating a unit in the PPO&M case.

-- The University's argument of fragmentation and proliferation of bargaining units on the Durham campus would be considered a valid approach were it not a fact that the police and those associated with law enforcement activities are generally considered to be a group apart from other operating positions; their duties and responsibilities are unique in themselves.

-- The argument that a creation of a Public Safety Department unit, commingling public safety officers who are law enforcement officers with public safety officers who have no law enforcement powers but are in the same department, with the same supervision, same community of interest; namely, guards, fails in the face of the testimony presented.

-- The supervision and the self-felt community of interest in case of this unit is most persuasive.

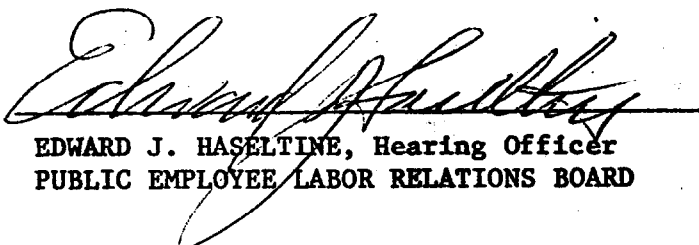
-- The parties at hearing mutually agreed to the exclusion from the proposed unit (a) sergeants, (b) secretaries and (c) clerks

DECISION AND ORDER

1. The motion for dismissal filed by the University System is hereby denied.

2. A bargaining unit is hereby created composed of the following positions in the Public Safety Division on the Durham Campus of the University System of New Hampshire:

- (a) Public Safety Officer I & II, Security Officers
- (b) Public Safety Officer III, Traffic Officers
- (c) Public Safety Officer IV, Safety Specialist
- (d) Public Safety Officer V, Patrolmen


EDWARD J. HASELTINE, Hearing Officer
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 28th day of May, 1981.